

**IN THE UNITED STATES DISTRICT COURT
FOR THE NORTHERN DISTRICT OF ILLINOIS
EASTERN DIVISION**

M&G HEALTH ASSOCIATES, INC., A/K/A
M&G HEALTH ASSOCIATES, SC,

Plaintiff,

v.

HEALTH CARE SERVICE CORPORATION,
A MUTUAL LEGAL RESERVE COMPANY,
D/B/A BLUE CROSS BLUE SHIELD OF
ILLINOIS,

Defendant.

CASE NO. 08CV3944

HONORABLE JUDGE LEFKOW

HONORABLE MAGISTRATE JUDGE COX

MOTION TO DISMISS

Health Care Service Corporation, a Mutual Legal Reserve Company, d/b/a Blue Cross Blue Shield of Illinois (“HCSC”) moves to dismiss various claims in the Complaint filed by Plaintiff M&G Health Associates, Inc. a/k/a M&G Health Associates, SC (“M&G”) pursuant to Federal Rule of Civil Procedure 12(b)(6), and states as follows:

1. Plaintiff’s seven count Complaint purports to allege a series of common law claims, including breach of contract, promissory estoppel, unjust enrichment, *quantum meruit* and account stated, as well as a violation of § 155 of the Illinois Insurance Code arising from HCSC’s alleged failure to pay for services Plaintiff rendered to patients that were insured by HCSC.

2. The Complaint alleges that the patients were “covered” by plans that HCSC issued or administered, that Plaintiff rendered “covered” services to those patients, and that HCSC failed to process the claims, or that HCSC processed those claims improperly by paying the patient instead of Plaintiff. Plaintiff asserts its entitlement to its patients’ benefits by

alleging that it stepped into shoes of its patients via the Assignment of Benefits forms that its patients signed.

3. On July 11, 2008, HCSC removed this case to federal court under 28 U.S.C. § 1441(b) based on federal question jurisdiction pursuant to 28 U.S.C. § 1331.

4. HCSC's Motion seeks dismissal with prejudice of all counts asserted in Plaintiff's Complaint pursuant to Rule 12(b)(6) of the Federal Rules of Civil Procedure to the extent those counts involve plans governed by the Employee Retirement Income Security Act of 1974 ("ERISA"), as well as dismissal with prejudice of Count VII (Account Stated), for failure to state a claim for the reasons set forth in HCSC's Memorandum of Law in Support of Motion to Dismiss Plaintiff's Complaint.

Dated: August 7, 2008

HEALTH CARE SERVICE CORPORATION

By: /s/ Douglass G. Hewitt
One of Its Attorneys

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